

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6872

BILL NUMBER: SB 298

NOTE PREPARED: Feb 27, 2012

BILL AMENDED: Feb 27, 2012

SUBJECT: Mortgages and Liens on Real Property.

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR: Rep. Speedy

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: No Fiscal Impact

Summary of Legislation: (Amended) This bill removes a provision specifying that a mortgage or vendor's lien that was created before September 1, 1982, on real estate in Indiana expires 20 years after the last installment of the secured debt is due. It provides that if a mortgage or vendor's lien does not show the due date of the last installment, the mortgage or lien expires 10 years (instead of 20 years under current law) after the date of execution of the mortgage or lien. The bill provides that if: (1) the record of the mortgage or lien does not show the due date of the last installment; and (2) the execution date is omitted from the mortgage or lien; the mortgage or lien expires 10 years (instead of 20 years under current law) after the mortgage or lien is recorded. It makes exceptions to the expiration period if a foreclosure action is brought or maintained not later than the expiration period.

The bill makes corresponding changes in the provision that allows the mortgagee or lienholder to file an affidavit stating when the debt becomes due. It provides that at any time after a judgment and decree of sale is entered in an action to foreclose a mortgage on an interest in real property in Indiana, an interested person or an omitted party may bring a civil action concerning an omitted party's interest in the property. This bill provides that upon the filing of such an action, the court shall determine the extent of the omitted party's interest and issue a decree terminating that interest, subject to the right of the omitted party to redeem the property if the omitted party would have had redemption rights under existing law. It sets forth factors that the court must consider in determining the terms of redemption. The bill provides for the amount to be paid for redemption and the time allowed for payment.

It also provides that: (1) the senior lien on which the foreclosure action was based is not extinguished by merger with the title to the property conveyed to a purchaser at the judicial sale until the interest of any omitted party has been terminated; and (2) until an omitted party's interest is terminated, the purchaser at the judicial sale

is the equitable owner of the senior lien. The bill provides that an interested person's rights under the new provisions may not be denied because of certain acts or omissions by the interested person.

It specifies that any provision in a rental agreement between the owner of a mobile home community and a tenant that purports to prohibit the display of: (1) a religious symbol; (2) the American flag; (3) the state flag of Indiana; or (4) a POW/MIA flag; is void. It makes technical changes.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected:

Information Sources:

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